

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

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FREEDOM FROM RELIGION  
FOUNDATION, INC.,  
and TRIANGLE FFRF,

Plaintiffs,

v.

Case No. 12 CV 0946-bbc

DANIEL E. WERFEL,  
ACTING COMMISSIONER  
OF THE INTERNAL REVENUE SERVICE,

Defendant.

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**JOINT PRELIMINARY PRETRIAL CONFERENCE REPORT**

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The parties jointly submit the following Preliminary Pretrial Conference Report:

1.     Statement of the Case.   The Plaintiffs allege that Defendant is violating the Establishment Clause of the First Amendment to the United States Constitution by imposing annual filing requirements to maintain § 501(c)(3) tax-exempt status under the Tax Code that churches and religious organizations do not have to meet. Defendant moved to dismiss on the basis that Plaintiffs have failed to establish that they have standing to bring this claim and that this Court lacks subject matter jurisdiction. The Court denied the Defendant's motion to dismiss as to annual reporting requirements.

Defendant denies that the Court has subject matter jurisdiction and denies all allegations of unconstitutional conduct.

2. Name of Related Cases. None.

3. Statement of Factual and Legal Issues: Whether the Defendant is violating the Establishment Clause.

4. Description of Amendments to Pleadings. The parties reserve the right to amend pleadings as allowed by the Court's Scheduling Order, but do not anticipate amendments at this time.

5. Identity of Added New Parties. None anticipated at this time.

6. Estimated Trial Length. Should trial be required, the parties anticipate that trial will take two to four days.

7. Other Matters Which May Affect Disposition of Case. The parties anticipate that dispositive motions will be filed. If such motions fail to dispose of the case, then a trial to the Court would be appropriate as this matter does not raise issues requiring a jury's determination.

8. Proposed Discovery Plan. The parties propose the following deadlines:

a. Rule 26(a)(1) initial disclosures deadline: October 30, 2013

b. Dispositive motions deadline: June 2, 2014;

b. Deadline for the disclosure of expert witnesses: February 1, 2014;

c. Deadline for the disclosure of rebuttal expert witnesses: March 1, 2014;

d. Discovery deadline: August 1, 2014;

e. Trial Date: after August 1, 2014;

f. At this time, the parties do not anticipate any modification of the Federal rules relating to the number of depositions or interrogatories.

9. Additional statement regarding the discovery of tax return information.

The parties agree that no discovery requests shall be construed to include requests for documents or other information that is protected from disclosure of returns and return information pursuant to 26 U.S.C. § 6103 and/or § 6110(c).

10. Additional statement regarding the discovery of electronically stored information.

- Requests to disclose electronically stored information will be limited to data reasonably available to the parties in the ordinary course of business.

- The parties agree they will make available e-mail communications and other electronically stored information in printed form, i.e., in .PDF format or as TIFF images with a load file. All such data will be produced to the opposing party on one or more recordable compact discs.

- No other problems are anticipated in connection with electronic or computer-based discovery.

11. Pursuant to Fed. R. Civ. P. 5(b)(2)(E), the parties consent to service of pleadings and other papers by electronic means.

Dated this 7th day of October, 2013

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Dated this 7th day of October, 2013

**U.S. DEPARTMENT OF JUSTICE  
TAX DIVISION**

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Notice of Electronic Filing and Service

I hereby certify that on October 7, 2013, this document was filed electronically in accordance with the ECF procedures of the United States District Court, Western District of Wisconsin, under Rule 5(d)(1), Federal Rules of Civil Procedure. All parties who are represented and have consented to service of electronically filed documents are served upon receipt of the NEF from the electronic filing system.

To the best of my knowledge, there are no parties in this case that require service by means other than electronic service using the Court's NEF. The original document on file contains valid original signatures.

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